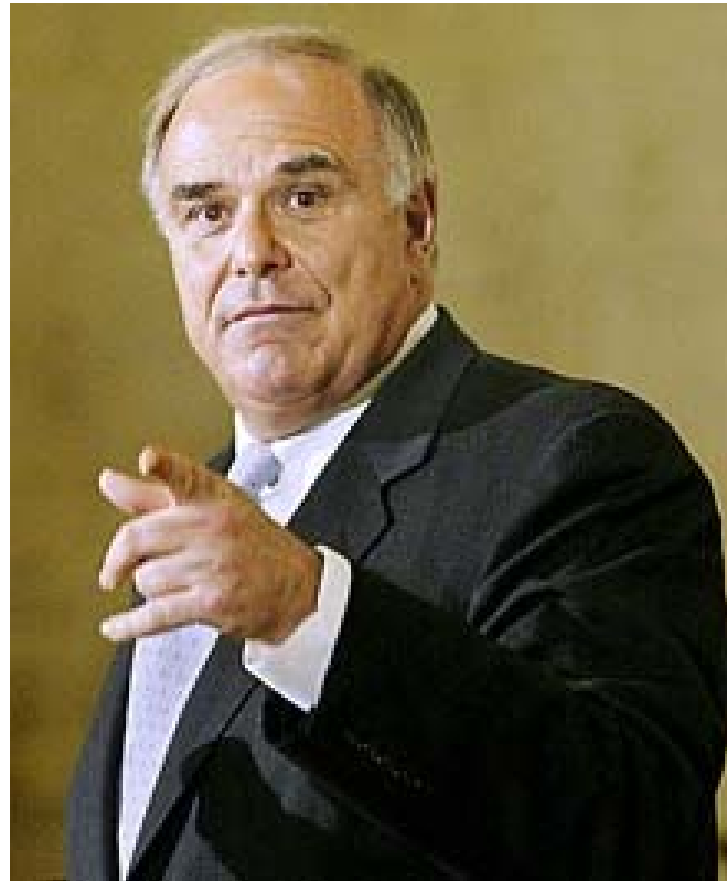




Right-to-Know Law Quiz

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***Governor Rendell Wants YOU to Know
About Pennsylvania's New
Right-to-Know Law***



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Local Agency To-Do List

- **Appoint an Open Records Officer**
- **Post Open Records Officer contact information**
 - **See Posting Requirements in Section 504(b)**
- **Become familiar with the 30 exceptions**
- **Amend local record request policy as needed**
- **Identify areas of similarity and difference from old statute**
 - **Get ready for the 16 question quiz!**

Scenario I

- **George, A citizen of the state of Utah, is visiting his cousin, Steve, who is a police officer in Pennsylvania. George asks for a copy of Steve's last performance report so he has some material to make jokes about Steve for Steve's upcoming bachelor party.**

Question #1

- **Can the Agency inquire into further details surrounding the motivation behind the request?**

Question #1 Answer

- **Can the Agency inquire into further details surrounding the motivation behind the request?**
- **No. Even if you believe the requestor's story is not credible, Section 1308(2) states that an agency may not adopt a policy or regulation which requires the disclosure of the purpose or motive for requesting access to records.**

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Question #2

- **Is there an exception that would allow the Agency to deny access to an agency employee's performance report?**

Question #2 Answer

- **Is there an exception that would allow the Agency to deny access to this record?**
- **Yes. Exception 7 states that an agency employee's performance rating or review may be withheld.**
- **Note: under the old Right-to-Know Law the person requesting the document would have to show that the record requested was a "public record." The new law changes the process so now the agency must provide access unless the record falls within one of the 30 exceptions listed in Section 708.**

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Question #3

- **If you already know your agency will deny access to a record, must you forward the record request to your Open Records Officer?**

Question #3 Answer

- **If you already know your agency will deny access to a record, must you forward the record request to your Open Records Officer?**
- **Yes. Section 502 states “The open-records officer shall receive requests submitted to the agency under this act, direct requests to other appropriate persons within the agency or to appropriate persons in another agency, track the agency’s progress in responding to requests and issue interim and final responses under this act”**
- **Note: the citizen requesting the information may be interested in your opinion and the act does not forbid you from giving it.**

Question #4

- **Can a citizen of Utah request a record in Pennsylvania?**

Question #4 Answer

- **Can a citizen of Utah request a record in Pennsylvania?**
- **Yes. The old Right-to-Know law limited requests to only citizens of the Commonwealth of Pennsylvania, but the new Right-to-Know law extends the right to request access to any citizen of the United States. But, this does not really change anything since courts have held under the old statute that out of state citizens could request access to records through an attorney who is a citizen of Pennsylvania.**

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Question #5

- **George requested his cousin's performance report on a standard form downloaded from the Office of Open Records and not on the form specified by Agency policy. Can the Agency request George to resubmit the request on the Agency form?**

Question #5 Answer

- **George requested his cousin's performance report on a standard form downloaded from the Office of Open Records and not on the form specified by Agency policy. Can the Agency request George to resubmit the request on the Agency form?**
- **No. Section 505 requires local agencies to accept the uniform form developed by the Office of Open Records.**
- **Note: Section 504 authorizes local agencies to promulgate regulations and policies necessary to implement this act which includes a policy to use a particular agency form. But, agencies must also accept the standard form created by the state office.**

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Question #6

- **How long does the agency have to respond to George's request?**

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Question #6 Answer

- **How long does the agency have to respond to George's request?**
- **5 business days. The clock starts when the Open Records Officer receives the written request and ends when the agency sends the response.**
- **Note: There are no penalties associated with oral requests.**

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Question #7

- **Assuming the answer to George's request is a denial, who must send the response?**

Question #7 Answer

- **Assuming the answer to George's request is a denial, who must send the response?**
- **The open-records officer.**
 - **A denial of a request, in whole or in part, shall include**
 - **A description of the record requested**
 - **Reason for denial (including legal authority)**
 - **Typed or printed name, title, business address, business telephone number and signature of the open-records officer on whose authority the denial is issued**
 - **Date of the response**
 - **Procedure for appeal**

Question #8

- **What section of the new Right-to-Know Law provides the procedure for appeal?**

Question #8 Answer

- **What section of the new Right-to-Know Law provides the procedure for appeal?**
- **Section 1101.**

Question #9

- **What is the penalty if the appeals officer from the Office of Open Records finds that the Agency should have granted access?**

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Question #9 Answer

- **What is the penalty if the appeals officer from the Office of Open Records finds that the Agency should have granted access?**
- **\$0 for a good faith effort with which the appeals officer disagrees. Up to \$1,500 in civil penalties if a court finds the Agency denied access to a public record in bad faith.**
- **Also, a court may penalize up to \$500 per day if a court orders access to a record and the Agency refuses to grant access.**

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Scenario II

- **Carl is a local citizen engaged in a law suit against his neighbor. Carl's neighbor just built a huge wall on his property that casts a shadow across Carl's pool every day after around 4pm. Carl wants access to every building permit ever granted by the city's zoning commission since 1950 to help his lawyer know if he has a case against the city for preferential treatment to his neighbor.**

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Question #10

- **Is there an exception which would allow the Agency to refuse granting access to this information?**

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Question #10 Answer

- **Is there an exception which would allow the Agency to refuse granting access to this information?**
- **No. Access must be granted.**

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Question #11

- **Our Agency has that information and we recognize the information is public, but it is mixed in with other documents. Must we create a special file including only what was requested?**

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Question #11 Answer

- **Our Agency has that information and we recognize the information is public, but it is mixed in with other documents. Must we create a special file including only what was requested?**
- **No. Section 705 states “When responding to a request for access, an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.”**

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Question #12

- **Our Agency has that information and we recognize the information is public, but it is mixed in with other non-public documents. Must we create a special file including only what was requested?**

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Question #12 Answer

- **Our Agency has that information and we recognize the information is public, but it is mixed in with other non-public documents. Must we create a special file including only what was requested?**
- **Yes. Section 706 provides that if a record contains both public records and restricted records the agency must separate them before providing access. Further, “if the information which is not subject to access is an integral part of the public record” the document must be redacted.**
- **Where any information is denied the Agency must provide a response in accordance with Section 903 “Denial.”**

Question #13

- **Our Agency has a policy that restricts the maximum number of documents to 100 and we expect this request to exceed that. Can we provide access to only 100 documents if we treat everyone the same way?**

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Question #13 Answer

- **Our Agency has a policy that restricts the maximum number of documents to 100 and we expect this request to exceed that. Can we provide access to only 100 documents if we treat everyone the same way?**
- **No. Section 1308 disallows agencies from creating policies which restrict the number of documents a citizen may access.**

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Question #14

- **Our agency had 3 people and they all left. Can we request an extension past 5 business days since we have a totally new staff?**

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Question #14 Answer

- **Our agency had 3 people and they all left. Can we request an extension past 5 business days since we have a totally new staff?**
- **No. Section 902 enumerates 7 legitimate excuses for time extensions. The “new staff exception” is not one of them.**
- **Note: There is an exception for “bona fide and specified staffing limitations.” So, if the record request requires more staff members than are available then this exception could apply.**

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Question #15

- **Can we still charge for the cost of making copies?**

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Question #15 Answer

- **Can we still charge for the cost of making copies?**
- **Yes. The Office of Open Records is tasked to create a fee schedule for photocopying, printing from electronic media, copying onto electronic media, faxing, etc.**
- **Per Section 1307(a)(2) any duplication fees not prescribed by the Office of Open Records “must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities.”**

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Question #16

- **Can we charge for the staff time used to review the records?**

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Question #16 Answer

- **Can we charge for the staff time used to review the records?**
- **No. According to Section 1307(g) “No fee may be imposed for an agency’s review of a record to determine whether the record is a public record subject to access”**

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Congratulations!

- **You completed this Right-to-Know Law presentation!**

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Questions

- **If you have further questions about the new Pennsylvania Right-to-Know Law please contact**
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